



DITO Telecommunity:

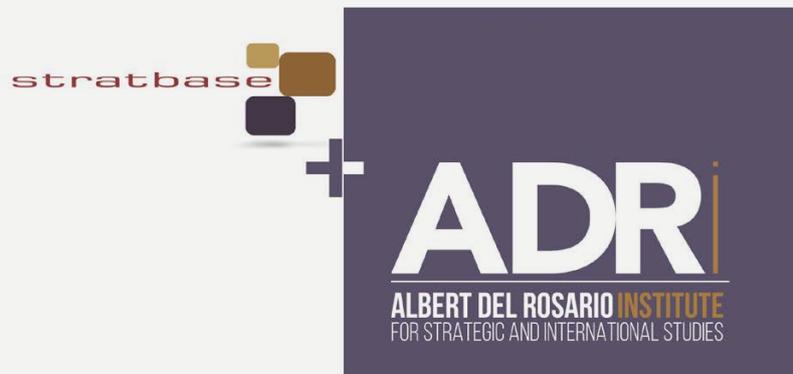
Boon or Bane for the Philippines?

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The Stratbase ADR Institute for Strategic and International Studies (ADRI) is an independent international research organization focused on the in-depth analysis of economic, social, political, and strategic issues influencing the Philippines and the Indo-Pacific region. In the age of geopolitical uncertainties and technological advancements, ADRI gives equal importance to the interdependent nature of states, sectors, and stakeholders in its strategic analyses and solutions design.



Introduction

Filipinos are so enamored with digital technology that the average user spends nine hours and 45 minutes online daily—among the highest in the world.¹ Still, the digital divide in the Philippines is vast: some 60 percent of households do not have access to the Internet, and some 30 percent do not have access to a high-speed mobile network.²

The country's connectivity issues have been blamed historically on the lack of competition. Indeed, the telecommunications sector has been dominated for years by the duopoly of Globe Telecom and Smart Communications.

Dropped calls. Unstable connections. Relentless spam. Slow-loading web pages. Short-lived prepaid, or "load value," plans. Misleading terms in Internet service packages. What began in the early 2000s with steady complaints from subscribers morphed into criticism of the availability and quality of telecom services nationwide by 2012. Even the state Commission on Elections blamed weak signals for delays in the reporting of results.³

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- 1 Jimbo Gulle, "Pinoys spend 10 hours online, 4 hours on socmed," *Manila Standard*, February 1, 2020 <https://manilastandard.net/news/national/316243/pinoys-spend-10-hours-online-4-hours-on-socmed.html>
 - 2 Christina Mendez, "Duterte seeks Philippine growth through global digital economy", *PhilStar*, May 23, 2021 <https://www.philstar.com/headlines/2021/05/23/2100232/duterte-seeks-philippine-growth-through-global-digital-economy>; Louie Montemar, "The Need for a stronger Philippine ICT Infrastructure," *Rappler*, June 25, 2021 <https://www.rappler.com/voices/imho/opinion-need-stronger-philippine-information-communications-technology-infrastructure>
 - 3 Philip Tubeza, "Brillantes blames telcos anew for failure to transmit results," *Inquirer.net*, May 24, 2013 <https://newsinfo.inquirer.net/414315/brillantes-blames-telcos-anew-for-failure-to-transmit-results>

By 2016, then-presidential candidate Rodrigo Duterte had seized on public discontent with the telecoms by pledging that, should he win the election, Filipinos could expect true competition in the sector through the entry of a third operator.⁴

While Globe and Smart attacked each other with accusations of cut-throat promotions and illegal use of frequencies, Duterte won the presidency—reportedly extending to China the opportunity to become the third telecommunications player in November 2017.⁵

While the introduction of a third operator was seen by Filipinos as a welcome development—and the fulfillment by Duterte of a campaign promise—telecom industry experts cautioned that the preferential treatment afforded to China was creating a collateral issue: the potential compromise of national security in the Philippines.⁶ Senator Ana Theresia Hontiveros, one of only two senators who opposed the third company's franchise, said the extension puts the Philippines at considerable risk of cyber intrusion by China: "DITO seems merely the Filipino mask over China Telecom."⁷

Nevertheless, Duterte directed government agencies to ensure that the new player would be "up and about" by early 2018.⁸ After a complicated bidding process fraught with allegations of cronyism and a lack of transparency, Duterte awarded a Certificate of Public Convenience and Necessity (CPCN) to DITO Telecommunity Corporation (DITO) in 2019.

Originally known as the Mislattel Consortium, DITO is owned by China Telecom Corporation and two Philippines-based companies founded by Dennis Uy, a major financial backer of Duterte.

DITO launched in March 2021 in the Mindanao and Visayas island groups. As of September 2021, the third telecommunications company (telco) reportedly had spread into 233 cities and municipalities across the country and was expected to expand into another 53 service areas by October.⁹

As competition heats up, access improves, and prices fall, a major question remains: What are the long-term consequences of giving a Chinese company access to Philippine military bases during a territorial dispute between the two countries in the West Philippine Sea?

In short: Is DITO Telecommunity a boon or bane for the Philippines?

4 "Duterte's 30 Promises," *Inquirer.net*, accessed October 2020 <https://www.inquirer.net/duterte/promises/>

5 Darwin Amojelar, "Smart files on Globe, Altimax frequency misuse," *Manila Times*, September 9, 2011 <https://www.manilatimes.net/2011/09/09/business/business-top/smart-files-case-on-globe-altimax-frequency-misuse/721456>; Miguel Camus and Philip C. Tubeza, "Duterte offers China 3rd telco carrier slot," *Inquirer.net*, November 21, 2017 <https://newsinfo.inquirer.net/946465/duterte-offers-china-3rd-telco-carrier-slot>

6 "Study looks into Dito-Chinatel risks," *The Associated Press*, October 30, 2020 <https://apnews.com/press-release/globe-newswire/technology-business-greater-china-industrial-products-and-services-philippines-2fa671f6c284f549e14e4ea8d6be7b05>

7 Bernadette Tamayo, "Senate renews Dito's 25-year franchise," *Manila Times*, March 24, 2021 <https://www.manilatimes.net/2021/03/24/news/senate-renews-ditos-25-year-franchise/855014>

8 Trishia Billones, "Duterte wants third telco player 'up and about' by early 2018," *ABS-CBN News*, December 19 2017 <https://news.abs-cbn.com/business/12/19/17/duterte-wants-third-telco-player-up-and-about-by-early-2018>

9 Lismet Esmael, "DITO targets to launch fiber-like broadband service using 5G network in Q4", *CNN Philippines*, September 9, 2021 <https://www.cnnphilippines.com/business/2021/9/9/DITO-targets-to-launch-fiber-like-broadband-service-using-5G-network-in-Q4-.html>

The Players

Globe Telecom is currently the largest telco in the Philippines, with a mobile subscriber base of 76,645,567 in 2020.¹⁰ As of September 2020, its principal stockholders were: Asiacom Philippines, Inc. (51 percent), Singtel Group (20 percent), and Ayala Corporation (13 percent), with the remaining shares held by the public (16 percent) and company executives.¹¹ Because Asiacom Philippines is an investment holding company majority-owned by Ayala, the company's share is effectively 64 percent.¹²

Smart Communications is the second largest operator, with a subscriber base of 72,933,839 in late 2020.¹³ The company is a wholly-owned subsidiary of PLDT, Inc., formerly known as the Philippine Long Distance Telephone Company and the country's oldest and largest telecom.¹⁴

Dito Telecommunity Corporation (DITO), formerly known as Mislattel Consortium is a joint-venture company comprised of China Telecommunications Corporation (40 percent), Udenna Corporation (35 percent), and Chelsea Logistics and Infrastructure Holdings Corporation (25 percent).

According to publicly available documents, the key officials in DITO are:

Chairman and CEO	:	Dennis Uy
President	:	Ernesto R. Alberto
Chief Administrative Officer	:	Adel A. Tamano
Chief Technology Officer	:	Rodolfo Santiago Jr.

Udenna Corporation is described on its website as:

the parent company of the Udenna Group of Companies. It is in the business of distribution and retail of petroleum products and lubricants under the Phoenix brand. It is also engaged in shipping and logistics through its majority-owned subsidiary, Chelsea Logistics and Infrastructure Holdings Corp. In recent years, the continued expansion of the group has allowed Udenna to grow exponentially and diversify its business portfolio to include property development, education, food, gaming, tourism, infrastructure, and telecommunications.¹⁵

10 Securities and Exchange Commission SEC Form 17-C of Globe Telecom, Inc., accessed October 20, 2021 <https://www.globe.com.ph/content/dam/globe/brie/About-us/investor-relations/documents/SEC-PSE-Disclosures/2020/Quarterly/Quarterly-Results-Press-Release/GLO-4Q20-Press-Release.pdf>

11 Globe Telecom, "Shareholding Structure," accessed October 2020 <https://web.archive.org/web/20201115171251/https://www.globe.com.ph/about-us/corporate-governance/shareholding-structure.html>

12 Ayala holds 60 percent of shares in Asiacom Philippines. The other 40 percent of shares are held by Singtel. Globe Telecom, *Form 20-F*, as filed with the U.S. Securities and Exchange Commission on March 31, 2004 <https://www.sec.gov/Archives/edgar/data/1096692/000119312504054707/d20f.htm>

13 PLDT Certification, accessed October 2021 https://www.pldt.com/docs/default-source/annual-reports/phil.-sec-form-17-a/pldt-inc-2020-sec-form-17-a_29march2021.pdf?sfvrsn=2

14 PLDT Smart Foundation, "About us," accessed October 2020 <https://www.pldtsmartfoundation.org/about>

15 Udenna Group, "About Udenna," accessed October 2020 <https://www.udenna.ph/about-us>

Chelsea Logistics and Infrastructure Holdings Corporation is described on its website as:

the biggest shipping and logistics company in the Philippines, operat[ing] through its wholly-owned subsidiaries and its associates: Chelsea Shipping Corp., Trans-Asia Shipping Lines, Inc., Worklink Services, Inc., Starlite Ferries, Inc., SuperCat Fast Ferry Corporation, and 2GO Group, Inc.¹⁶

Dennis Uy, a businessman based in Davao City — Duterte's hometown — founded both Udenna and Chelsea. He is CEO and chairman of Udenna and chairman of Chelsea.¹⁷

State-owned China Telecom is described on its website as:

China Telecom Corporation Limited (“China Telecom” or the “Company,” a joint-stock limited company incorporated in the People’s Republic of China with limited liability, together with its subsidiaries, collectively the “Group”) is a large-scale and leading integrated intelligent information services operator in the world, providing wireline & mobile telecommunications services, Internet access services, information services, and other value-added telecommunications services primarily in the PRC.¹⁸

In late 2019, China Telecom reported a mobile subscriber base of about 336 million and a wireline broadband subscriber base of about 153 million. The company reportedly has about 111 million access lines in service.¹⁹ Ke Ruiwen is listed as the Chairman and CEO, while Li Zhengmao is the President and Chief Operating Officer (COO). China’s government controls China Telecom.²⁰

Case Study Timeline

In 1928, the Philippine Long Distance Telephone Company, now known as PLDT, Inc., was incorporated.²¹ In 1935, Globe Wireless Limited joined the sector.²² In 1992, Globe Wireless changed its name to Globe Telecom, Inc., and the following year welcomed Singapore Telecom, Inc. as a foreign partner.²³ In 1995, President Fidel V. Ramos signed into law Republic Act No. 7925 (The Public Telecommunications Policy Act of the Philippines), part of an ambitious effort to break up monopolies in state-regulated industries.

16 Chelsea, “Who We Are,” accessed October 2020 <https://www.chelsealogistics.ph/who-we-are/>

17 Chelsea, “Dennis A. Uy,” accessed October 2020 <https://www.chelsealogistics.ph/portfolio/dennis-a-uy/>; Udenna, “Dennis Uy,” accessed October 2020 <https://www.udenna.ph/board-of-directors/dennis-uy>

18 China Telecom, *Overview*, accessed October 2020 https://www.chinatelecom-h.com/en/company/company__overview.php

19 “Annual Report 2019,” *China Telecom*, accessed October 2020 http://ar2019.chinatelecom-h.com/reports/china_telecom/annual/2019/gb/English/1010/-about-china-telecom.html

20 Ralf Rivas, “Fast Facts: Mislattel, the new major telco player,” *Rappler*, February 6, 2019 <https://www.rappler.com/business/things-to-know-about-mislattel-new-major-telco-player-philippines>

21 “PLDT Company Timeline”, accessed September 2021 <http://www.pldt.com/about-us/company-timeline>

22 Ralf Rivas, “Manny Pangilinan, PLDT’s most valuable player, passes the ball,” *Rappler*, June 8, 2021 <https://www.rappler.com/business/manny-pangilinan-legacy-pldt-telecommunications-industry>

23 “Company Information: Globe Telecom, Inc.” *PSE Edge*, accessed September 2021 https://edge.pse.com.ph/companyInformation/form.do?cmpy_id=69

Although the new law was intended to open the telecom sector to private players in a bid to improve services, the bureaucratic landscape did not favor new players.²⁴ The Constitution limits foreign investment in the telco industry to 40 percent.²⁵ Private players must obtain a legislative franchise, a process that takes an average of five years. A franchise in this case is granted by Congress for an entity to engage in telecommunications service, while the CPCN is granted by the National Telecommunications Commission that allows an entity to install, operate, and maintain public telecommunications facilities and services.²⁶ New players also needed to navigate the country's complex web of licenses, permits, and CPCNs.²⁷

Improvements were slow in coming. Over the ensuing decades it became clear that a stable and modern digital infrastructure was increasingly necessary to support the country's rapidly growing economy, as well as promote global competitiveness. Still, according to the news service Nikkei Asia, telecom service in the Philippines "was a hair-pulling combination of dropped calls, webpages that struggled to load, unstable connections, and buffering video broken up by brief spells of pixelated images. The poor service was a drag on businesses dependent on Internet services. In Asia, the only country with slower service than the Philippines was Afghanistan, and access costs more than triple the global average."²⁸

In 2016—against the backdrop of a national election, and mounting complaints of inferior and expensive services—President Benigno Aquino III signed into law Republic Act No. 19844, which created the Department of Information and Communications Technology (DICT).

That same year, then-candidate Duterte took aim at Globe and Smart, threatening the underperforming duopoly with greater competition supported by foreign investors.²⁹ Among his first acts as president, Duterte in 2016 tasked DICT to develop a National Broadband Plan (NBP) "to respond to the clamor of the public for faster and cheaper internet."³⁰

By 2018 Duterte had directed various state agencies, led by the National Telecommunications Commission (NTC), to select a new telco player according to three criteria: national coverage (40

24 Rivas, 2021

25 Cai Ordinario, "Legislative franchises for telcos should be removed – PIDS study", *BusinessMirror*, May 21, 2019 <https://businessmirror.com.ph/2019/05/21/legislative-franchises-for-telcos-should-be-removed-pids-study/>

26 Republic Act No. 7925, "The Act to Promote and Govern the Development of Philippine Telecommunications and the Delivery of Public Telecommunications Services," accessed October 2020 https://region7.ntc.gov.ph/images/LawsRulesAndRegulations/RA/RA_7925_Telecomm.pdf ; National Telecommunications Commission, "FAQs – Telecommunications" <https://ntc.gov.ph/faqs-telecommunication/>

27 Republic Act No. 7925. "The Act to Promote and Govern the Development of Philippine Telecommunications and the Delivery of Public Telecommunications Services," accessed October 2020 https://region7.ntc.gov.ph/images/LawsRulesAndRegulations/RA/RA_7925_Telecomm.pdf

28 Aurora Almendral, "Crony capital: How Duterte embraced in the oligarchs," *Nikkei Asia*, December 4, 2019 <https://asia.nikkei.com/Spotlight/The-Big-Story/Crony-capital-How-Duterte-embraced-the-oligarchs>

29 Dharel Placido, "Duterte tells telco firms to shape up," *ABS-CBN News*, May 22, 2016 <https://news.abs-cbn.com/business/05/22/16/duterte-tells-telco-firms-to-shape-up>

30 Department of Information and Communications Technology, "National Broadband Plan," 3027, accessed October 2020 <https://dict.gov.ph/wp-content/uploads/2017/09/2017.08.09-National-Broadband-Plan.pdf>

percent), Internet speed (25 percent), and capital expenditures (35 percent).³¹ The NTC was established in 1979 under former President Ferdinand Marcos with the power to regulate the installation, operation, and maintenance of broadcast stations. The NTC operates under administrative supervision by the DICT.³²

Ten groups declared intent to participate in the bidding process, but only three submitted bids by the deadline in the fall of 2018. After two of the bidders were disqualified—ostensibly for incomplete documents—the telco fell to the remaining bidder, Mislattel Consortium, which would become DITO.

In 2019, Duterte awarded a CPCN to DITO, which officially began operating in the country in March 2021.

By September 2021, DITO passed two technical audits and month-long periods of monitoring to ensure compliance with the terms of its franchise.³³ Some observers questioned the veracity of the second audit, citing alleged discrepancies in the data provided by government regulators and independent analysts.³⁴

Since then questions about DITO ownership and the legitimacy of its franchise have begun to lose traction.³⁵ In fact, the term of DITO's franchise—originally set to expire in 2023—was extended by Duterte by another 25 years.³⁶

The Bidding Process

In 2018, the NTC released Memorandum Circular No. 09-09-2018, which presented Terms of Reference (ToR) for companies interested in becoming the country's third telecom operator.³⁷ Interested companies could acquire bidding documents at P1 million (USD \$20,000) each; ten companies purchased bidding documents.³⁸

Table 4 compares the would-be bidders.

31 The selection process for third major telco through bidding was set into motion by the National Telecommunications Commission (NTC). An oversight committee was instituted by President Duterte by virtue of Administrative Order No. 11, series of 2018 to assist the NTC. The oversight committee is comprised of representatives from the DICT (Chairperson), the Department of Finance (Vice Chairperson), the Office of the Executive Secretary, and the National Security Adviser; Aerol John Patena, "Bidding for 3rd telco set on Wednesday," *Philippine News Agency*, November 6, 2018 <https://www.pna.gov.ph/articles/1053110>

32 Pauline Macaraeg, "Fast Facts: The National Telecommunications Commission," *Rappler*, May 6, 2020 <https://www.rappler.com/newsbreak/iq/things-to-know-national-telecommunications-commission>

33 Emmie Abadilla, "Infrawatch PH urging NTC to disclose DITO's 2nd tech audit," *Manila Bulletin*, September 20, 2021 <https://mb.com.ph/2021/09/20/infrawatch-ph-urging-ntc-to-disclose-ditos-2nd-tech-audit/>

34 Abadilla, 2021

35 Luchi de Guzman, "Senate allows transfer of Mislattel control to Udenna, China Telecom", *CNN Philippines*, February 7, 2019 <https://www.cnn.ph/business/2019/2/6/senate-mislattel-udenna-china-telecom-chelsea-logistics.html>

36 Azer Parrocha, "Duterte renews DITO Telecommunity franchise for 25 years", *Philippine News Agency*, May 18, 2021 <https://www.pna.gov.ph/articles/1140666>

37 Republic of the Philippines National Telecommunications Commission, "Rules and Regulations on the Selection Process for a New Major Player in the Philippine Telecommunications Market," *Memorandum Circular No. 09-09-2018*, September 9, 2018 <https://ntc.gov.ph/wp-content/uploads/2018/MC/MC-09-09-2018.pdf>

38 Ralf Rivas, "List: Potential 3rd telco bidders," *Rappler*, November 5, 2018 <https://www.rappler.com/newsbreak/iq/list-potential-3rd-telco-bidders-philippines>

Table 4. List of companies declaring intent to participate in bidding

No.	Company	Net Income (USD) ³⁹	General Information
1	China Telecommunications Corporation (China Telcom)	\$18.1 billion (2017)	<ul style="list-style-type: none"> Third largest telecom provider in China Listed in the Hong Kong Stock Exchange and the New York Stock Exchange With 250 million subscribers Ranked 174th in the Forbes Global 2000 list
2	Telenor	\$13.4 billion (2017)	<ul style="list-style-type: none"> Norwegian multinational telco Operates in Scandinavia, Eastern Europe, and Asia With 172 million customers worldwide Founded in 1855; with more than 160 years of telecom experience
3	AI Telekom (Mobitel Holding GmbH)	\$5 billion (2017)	<ul style="list-style-type: none"> Based in Austria Listed in the Vienna Stock Exchange With 24 million customers Operates in Austria, Bulgaria, Croatia, Slovenia, Belarus, Serbia, and Macedonia
4	NOW Telecom	\$130,000 (2017)	<ul style="list-style-type: none"> Subsidiary of the publicly-listed NOW Corporation Specializes in broadband connectivity
5	Sear Consortium	\$3.1 billion (combined)	<ul style="list-style-type: none"> Consortium with Luis Chavit Singson (LCS) Group, Mindanao-based Internet provider TierOne Communications, etc.
6	PT&T	\$505,176 (net loss, 2017)	<ul style="list-style-type: none"> Fiber optic network spans to over 1,000 kilometers and serves customers in Greater Manila Area, northern and southern Luzon and Cebu
7	Udena Corporation	\$15.5 million (2014)	<ul style="list-style-type: none"> Based in Davao Holding firm of Dennis Uy for business interests, including Phoenix Petroleum, Chelsea Logistics Holdings Corporation, etc.
8	Converge ICT	Information not available	<ul style="list-style-type: none"> Offers end-to-end fiber Internet network in the country Owned by Pampanga-based Dennis Anthony Uy Has partnerships with Verizon, Singtel, Telstra, Facebook, Netflix, Google, and Sprint for various services Poised to team up with Korea Telecom (KT) which services about 90% of South Korea's fixed-line subscribers and 45% of high-speed Internet users
9	AMA Telecommunications Corporation	Information not available	<ul style="list-style-type: none"> Subsidiary of AMA Education System Has no digital footprint, but acquired a congressional franchise in 2016 Foreign partners are undisclosed
10	Streamtech Technologies	Information not available	<ul style="list-style-type: none"> Owned by real-estate tycoon Manny Villar Dropped the bid to focus on internal expansion programs and strategies

Source: Ralf Rivas, "List: Potential 3rd telco bidders"

³⁹ No net income data available for Converge ICT, AMA Telecommunications Corporation, and Streamtech Technologies.

Among the ten potential bidders, only three submitted offers on November 7, 2018: Philippine Telegraph & Telephone Corporation (PT&T); the Mislattel Consortium; and Sear Consortium. The Mislattel Consortium consisted of two of the potential bidders—China Telecom and Udenna—as well as Chelsea Logistics and the Mindanao Islamic Telephone Company (Mislattel), which had been granted a telecom franchise in 1998. China Telecom, Udenna, and Chelsea provided the capital for the bid, while Mislattel served as the franchise holder.⁴⁰ Ultimately, PT&T and Sear Consortium were disqualified for submitting incomplete documents, paving the way for the Mislattel Consortium—now DITO—to be granted provisional third telco status.⁴¹ Issues with the Mislattel franchise are discussed in greater depth in the following paragraphs.

The Digital Landscape

Availability, Affordability, and Speed of Internet Access

The Inclusive Internet Index, published by The Economist Intelligence Unit, provides “a rigorous benchmark of national-level Internet inclusion in one hundred countries across four categories: availability, affordability, relevance, and readiness.”⁴² In the Inclusive Internet Index 2020 (see Table I), the Philippines ranked 63rd in availability among 100 countries, and sixth among nine countries in the Association of Southeast Asian Nations (ASEAN), excluding Brunei. The Philippines also ranked sixth in readiness and fourth in relevance.

Table I. Inclusive Internet Index 2020, ASEAN member countries

Country	Overall		Availability		Affordability		Relevance		Readiness	
	World	ASEAN	World	ASEAN	World	ASEAN	World	ASEAN	World	ASEAN
Cambodia	73	8	66	7	71	7	77	8	92	9
Indonesia	57	5	55	5	61	6	62	6	40	3
Lao PDR	78	9	75	9	73	8	89	9	91	8
Malaysia	35	2	38	3	43	3	33	1	3	1
Philippines	63	6	57	6	82	9	59	4	59	6
Myanmar	67	7	74	8	47	4	69	7	57	5
Singapore	15	1	2	1	29	2	46	3	22	2
Thailand	39	3	29	2	24	1	60	5	69	7
Vietnam	50	4	50	4	48	5	41	2	44	4

Source: Economist 2020

40 “Congress OKs Mislattel’s transfer to Dennis Uy-China Telecom group”, *CNN Philippines*, May 23, 2019 <https://cnnphilippines.com/business/2019/5/23/Congress-Mislattel-franchise.html>

41 “Only Dennis Uy-China Telecom bid qualified, 2 others incomplete”, *Rappler*, November 7, 2018 <https://www.rappler.com/business/only-dennis-uy-china-telecom-bid-qualified-2-others-incomplete-3rd-telco-player-philippines>

42 “The Inclusive Internet Index,” *The Economist*, accessed October 2020 <https://theinclusiveinternet.eiu.com/summary>

While the Philippines hovers in the middle of the pack, overall, among ASEAN members, the country ranks last in affordability, according to The Economist Intelligence Unit.

Similarly, according to the 2020 Digital Quality of Life (DQL) Index published by Surfshark, an Internet security company, the Philippines ranked 82nd out of 85 countries in Internet affordability—surpassed only by Guatemala, Costa Rica, and Albania.⁴³ In Internet stability, the Philippines ranked 77th in the DQL index.

In 2021, however, the Philippines began to show some improvement in broadband and mobile network speeds, as well as mobile availability. Average download speeds for fixed broadband increased to 72.56 megabits per second (Mbps) in August from 71.17 Mbps in July, while average download speeds for mobile networks increased to 33.77 Mbps from 33.69 Mbps over the same period, according to the Ookla Speedtest Global Index.⁴⁴ Over the past two and a half years, moreover, mobile 4G availability has increased to a level approaching the global average of 86.8 percent, according to an OpenSignal Mobile Network Experience report.⁴⁵

Table 2. Ookla Speedtest Global Index (August 2021)

Country	Rank	
	Mobile (out of 140)	Fixed Broadband (out of 180)
Brunei	36	105
Cambodia	104	120
Indonesia	112	114
Lao PDR	82	87
Malaysia	89	46
Philippines	73	63
Myanmar	93	139
Singapore	18	1
Thailand	50	5
Vietnam	57	59

Source: Ookla Speedtest Global Index

Internet speeds continue to improve across the board. For the third quarter of 2021, according to Ookla, the country's fastest mobile operator was Smart, followed by Globe and DITO, respectively.⁴⁶

43 "Digital Quality of Life Index," *Surfshark*, accessed October 2020 <https://surfshark.com/dql2020-slides.pdf>

44 Zacarian Sarao, "Ookla claims PH internet speeds improved in August," *Inquirer*, September 29, 2021 <https://technology.inquirer.net/112152/ph-internet-speeds-improve-in-august-ookla>

45 "Philippines Mobile Network Experience Report April 2021," *OpenSignal*, accessed September 2021 <https://www.opensignal.com/reports/2021/04/philippines/mobile-network-experience>

46 "Smart's speed score highest in Q3 – Ookla," *BusinessWorld*, October 22, 2021 <https://www.bworldonline.com/smarts-speed-score-highest-in-q3-ookla/>

Telecommunications Infrastructure

Even though the Philippines consistently ranks low in global digital competitiveness—the International Institute for Management Development (IMD) ranked the country 57th among 63 countries in 2020—the standing primarily reflects deficits in know-how and preparedness for the future.⁴⁷ In terms of investment in technology, however, the Philippines ranks 10th in the world in spending as a percentage of GDP.⁴⁸

Interestingly, such investment is driven almost exclusively by the private sector, notes NTC Commissioner Gamaliel Cordoba.⁴⁹

For example, the DICT's NBP—a state-owned broadband network that would improve Internet quality, coverage, and affordability—calls for a budget of P18 billion (USD \$356 million). In 2020, however, the DICT was allotted less than P2 billion (USD \$40 million) toward the network.⁵⁰

The DICT estimated in 2019 that the country needed at least 50,000 more cell towers; experts point to the low density of cell sites throughout the Philippines as the primary reason for the country's slow Internet speeds.⁵¹ Yet even as private-sector operators lined up to fund the construction of the new towers, DICT Acting Secretary Eliseo Rio Jr. told the Philippine News Agency that efforts were being hampered by “so much red tape” and “the problem of corruption — under-the-table deals.”⁵²

Rio also pointed toward the high number of permits required to build the towers. Globe Telecom President Ernest Cu said the company must obtain nearly 30 permits in order to build only one tower, a process that requires about eight months.⁵³

According to Gil Genio, Globe's Chief Technology and Information Officer, the lengthy permit process can be attributed to the roles of various local government units (LGUs), homeowner associations, and other stakeholders.⁵⁴

Table 3 compares cell sites in the Philippines to select countries in Asia.

47 “IMD World Digital Competitiveness Ranking 2020,” *International Institute for Management Development*, June 2020 <https://www.imd.org/news/updates/imd-2020-world-competitiveness-ranking-revealed/>

48 “PH among Top 10 countries worldwide in telco investments,” *Inquirer*, October 7, 2020 <https://business.inquirer.net/309043/ph-among-top-10-countries-worldwide-in-telco-investments>

49 Ben Rosario, “2-B allocation for Nat'l Broadband Plan cited,” *Manila Bulletin*, January 4, 2021 <https://mb.com.ph/2021/01/04/p2-b-allocation-for-natl-broadband-plan-cited/>

50 Department of Information and Communications Technology, “National Broadband Plan,” 3027, accessed October 2020 <https://dict.gov.ph/wp-content/uploads/2017/09/2017.08.09-National-Broadband-Plan.pdf>; “Government's National Broadband Plan to boost 'digital inclusion,’” *BusinessMirror*, January 4, 2021 <https://businessmirror.com.ph/2021/01/04/governments-national-broadband-plan-to-boost-digital-inclusion/>

51 Aerol John Patena, “50K additional cell sites needed to improve services: DICT,” *Philippine News Agency*, January 17, 2019 <https://www.pna.gov.ph/articles/1059240>; “More Pinoys Using the Internet; Cost of Mobile Data 'Cheaper' in Philippines vs Thailand,” *Globe Newsroom*, February 2, 2021 <https://www.globe.com.ph/about-us/newsroom/consumer/more-pinoys-using-internet-mobile-data-cheaper-ph.html#gref>

52 Aerol John Patena, “50K additional cell sites needed to improve services: DICT,” *Philippine News Agency*, January 17, 2019 <https://www.pna.gov.ph/articles/1059240>

53 Julie M. Aurelio, “Globe president meets Duterte; blames red tape for lack of cell tower,” *Inquirer.net*, August 1, 2020 <https://newsinfo.inquirer.net/1315134/globe-president-meets-duterte-blames-red-tape>

54 “Putting up cell sites is telco industry's single biggest challenge,” *Inquirer.net*, November 21, 2018 <https://business.inquirer.net/260913/putting-up-cell-sites-is-telco-industrys-single-biggest-challenge>

Table 3. Comparative data on cell sites (2018)

Country	No. of Internet Users (in millions)	No. of Cell Sites (in thousands)	User-Per-Site Ratio
Philippines	67	16.6	4,036
Indonesia	133	91.7	1,446
Vietnam	64	70.0	914
China	751	1,900.0	384
India	462	1,400.0	316

Source: Globe Telecom

In an effort to hasten tower construction the DICT issued Department Circular No. 008 in 2020, which empowered independent companies to build towers and telecom operators to lease them.⁵⁵ In addition, the DICT, in conjunction with the Department of the Interior and Local Government, the Anti-Red Tape Authority, and other government agencies, issued the Joint Memorandum Circular (JMC) No. 01 in 2021, which aims to streamline the process of securing permits and licenses for cell tower construction.⁵⁶

The latest government measures appear to be working. In 2019, some 1,636 permits for tower construction were issued to Globe, Smart, and DITO. In 2020—on the heels of the issuance of the DICT circular—the number of permits jumped to 6,451, an increase of 294 percent.⁵⁷

Governance Gaps

The bidding process revealed the following gaps in governance:

I. Lack of Competition/Uneven Playing Field:

The Mislattel Consortium, now DITO, effectively was unopposed—permitted to meet merely minimum requirements—after competitors PT&T and Sear Consortium were disqualified by the government over what observers characterized as technicalities.

55 The Philippines Department of Information and Communications Technology, Department Circular No. 008, May 29, 2020 https://dict.gov.ph/wp-content/uploads/2020/06/Department_Circular_No_008_Policy_Guidelines_on_the_Co_Location.pdf

56 “ARTA, key agencies sign expanded JMC for streamlining of telco towers permitting process,” *Anti-Red Tape Authority*, July 1, 2021 <https://arta.gov.ph/press-releases/arta-key-agencies-sign-expanded-jmc-for-streamlining-of-telco-towers-permitting-process/>

57 “Faster issuances of LGU permits result in improved telco infrastructure,” *Manila Bulletin*, May 31, 2021 <https://mb.com.ph/2021/05/31/faster-issuances-of-lgu-permits-result-in-improved-telco-infrastructure/>

2. Lack of Clarity/Transparency in Bidding Rules:

PT&T, which has operated in regions across the Philippines for some 56 years, was disqualified after the NTC declined to certify that the company has been operating on a national scale for the past 10 years. The original ToR, however, require only that bidders carry out the “provisioning, delivery and operation of telecommunications services for a country, or particular regions thereof, as geographically designated by the telecommunications authority of that country.”⁵⁸ The NTC subsequently amended the terms to stipulate that regional operations applied only to foreign telcos.⁵⁹ In other words, foreign firms with regional operations would qualify, but Philippine firms—such as PT&T—would not. (PT&T would need to operate, too, in the regions of Luzon, Visayas, and Mindanao to qualify as national, not regional, in scale.) PT&T President and CEO James Velasquez characterized the ruling as “discriminatory and, in a way, anti-Filipino.”⁶⁰

3. Legal Challenges:

TierOne and Luis Chavit Singson Group

The venture between TierOne and the Luis Chavit Singson (LCS) Group filed a lawsuit to disqualify Mislattel. About a year later, DITO and LCS Holdings signed an agreement for the lease of common towers that the LCS Group will be constructing in key areas of the country.⁶¹

Digiphil

Digiphil, on the other hand, sued Mislattel; its chair, Danilo Cortez; and its president, Nicanor Escalante, for breach of contract. In the lawsuit, Digiphil asserted that its agreement with Mislattel to provide affordable broadband services and also venture into the third telco selection process included both exclusivity and a right of first refusal, which required Mislattel to seek the consent of Digiphil before partnering or selling shares to any other group.⁶² It was reported further that a copy of the contract showed that a broad range of activities was covered, including venturing into “cellular mobile telephony” and “in general any other business or service that is within the scope of the legislative franchise.”⁶³

58 Republic of the Philippines National Telecommunications Commission, 2018

59 Republic of the Philippines National Telecommunications Commission, “NMP Selection Process,” *Clarification/Amendatory Bulletin No. 1*, October 11, 2018 https://ncr.ntc.gov.ph/wp-content/uploads/2019/Memorandum_Circulars/2018/MC-09-09-2018-Clarificatory-Bulletin-No.-01-dated-20181011.pdf; Republic of the Philippines National Telecommunications Commission, “New Major Player (NMP) Selection Process,” *Clarification/Amendatory Bulletin No. 5*, October 11, 2018 https://ncr.ntc.gov.ph/wp-content/uploads/2019/Memorandum_Circulars/2018/MC-09-09-2018-Clarificatory-Bulletin-No.-05-dated-20181029.pdf

60 “PT&T to appeal disqualification in 3rd telco bidding,” *CNN Philippines*, November 8, 2018 <https://cnnphilippines.com/business/2018/11/07/ptt-motion-for-reconsideration-disqualification-3rd-telco-bidding.html>

61 Ralf Rivas, “From rivals to partners: Chavit Singson teams up with Dennis Uy for 3rd telco,” *Rappler*, October 8, 2019 <https://www.rappler.com/business/chavit-singson-teams-up-with-dennis-uy-dito-telecommunity>

62 Miguel Camus, “Chavit group files case against Mislattel,” *Inquirer.net*, December 12, 2018 <https://business.inquirer.net/262079/chavit-group-files-case-against-mislattel>

63 Memorandum of Agreement, *DigiPhil*, May 30, 2018, <http://digiphil.net/mislattel/files/01%20DigiPhil%20+%20Mislattel%20MOA2.pdf>; Camus, 2018

NOW Telecom

In October 2018, NOW Telecom filed a request for a temporary restraining order and injunction against the NTC with the Manila Regional Trial Court (RTC) alleging that specific provisions in the ToR were not discussed during public hearings; there were barriers to entry; and the selection process was a money-making scheme. The provisions in the ToR at issue were: the new requirements for a P700-million (USD \$13.8 million) participation security, P14 – to P24-billion (USD \$276.8 to USD \$474.6 million) performance security, and P10-million (USD \$198,000) non-refundable appeal fee. The company said that these requirements could be declared “onerous, confiscatory, [and] potentially extortionary.”⁶⁴ On November 5, 2018, RTC Judge Dinnah Aguila Topacio dismissed the company’s request for lack of merit.⁶⁵

NOW Telecom appealed the ruling, petitioning for certiorari — a judicial review of a lower court or government agency’s decision. (The company declined to submit a bid, calling the process “flawed.”⁶⁶) The Court of Appeals dismissed the petition on March 18, 2019, finding “no grave and irreparable injury” occurred.⁶⁷ The dismissal came two months after Duterte warned courts not to intervene in the selection of a third telco.⁶⁸

4. Lack of Transparency in Granting Legislative Franchise:

The third telco required a valid congressional (legislative) franchise before it could begin operations.⁶⁹ Mislattel, which had possessed a legislative franchise since 1998, was poised to transfer controlling interest to DITO. However, the same law under which Mislattel was granted the franchise also states explicitly that:

The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any corporation or entity, nor shall the controlling interest of the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which this franchise is sold, transferred, or assigned, shall be subject to the same conditions, terms, restrictions, and limitations of this Act.⁷⁰

The DICT directed the NTC to ensure the transfer had the blessing of Congress before Mislattel could move forward.

64 “Bidder for third telco sues NTC, calls selection process ‘money-making scheme,’” *ABS-CBN News*, October 8, 2019 <https://news.abs-cbn.com/business/10/09/18/bidder-for-third-telco-sues-ntc-calls-selection-process-money-making-scheme>

65 Ted Cordero, “Court denies Now Telecom’s plea to invalidate provisions in 3rd telco terms of reference,” *GMA News Online*, November 6, 2018 <https://www.gmanetwork.com/news/money/companies/673738/court-denies-now-telecom-s-plea-to-invalidate-provisions-in-3rd-telco-terms-of-reference/story/>

66 Jomar Canlas, “PT&T Drops Bid, Now Telcom Goes to Appellate Court,” *Manila Times*, November 8, 2018 <https://www.manilatimes.net/2018/11/08/latest-stories/breakingnews/ptt-drops-bid-now-telcom-goes-to-appellate-court/464365>

67 Canlas, 2018

68 Billones, 2019

69 Vanne Elaine Terrazola, “Senate hearing casts doubts on validity of third telco’s franchise,” *Manila Bulletin*, January 24, 2019 <https://mb.com.ph/2019/01/24/senate-hearing-casts-doubts-on-validity-of-third-telcos-franchise/>

70 Emphasis supplied.

In December 2018, the Committee on Legislative Franchises of the House of Representatives passed a resolution approving the transfer of Mislattel's controlling interest to DITO.⁷¹ In January 2019, the Committee on Public Services in the Senate conducted a hearing on the compliance of Mislattel with the conditions of its franchise. During the hearing, Senator Franklin Drilon cited three potential violations he said could warrant the ipso facto revocation of Mislattel's franchise: the absence of congressional approval of a change of ownership of the consortium in 2015; the failure of Mislattel to begin operations within a year of franchise approval, as required by law; and the failure of Mislattel to make a public offering of 30 percent of its outstanding capital stock, as required by law, within five years of the commencement of operations.⁷²

Nevertheless, in February 2019, the Senate authorized the transfer of ownership of Mislattel to DITO, effectively resolving the legal issues concerning the franchise.⁷³

5. Fairness and Propriety:

The announcement that Mislattel won the bidding to become the third major player in the telecom industry was received with much criticism and little surprise. After all, the winning bid was spearheaded by Dennis Uy, the businessman who contributed P30 million (USD \$593,222) to the Duterte presidential campaign, according to Duterte's Statement of Contributions and Expenditures (SOCE).⁷⁴ The statement revealed other campaign donors with links to the Mislattel consortium who together contributed some P35.55 million (USD \$702,968), notably: Cherylyn Uy, wife of Dennis Uy and treasurer of Udenna Corporation and Chelsea Logistics (PI million, USD \$19,900); Efren Uy, Chelsea board member (P3.5 million, USD \$69,210); Chryss Alfonsus Damus, the officer-in-charge of Udenna and president and CEO of Chelsea (P500,000, USD \$9,887); Ma. Henedina San Juan, corporate secretary for both Udenna and Chelsea (P400,000, USD \$7,910); and Ignacia Braga IV, vice president for finance at both Udenna and Chelsea (PI50,000, USD \$2,966).⁷⁵

Former Senator Antonio Trillanes IV referred to the selection of Mislattel as "oozing with preferential treatment and, at worst, cronyism."⁷⁶

Arguably, most of these observations regarding the connection between contributions and crony capitalism are circumstantial and by themselves—financially supporting a presidential candidate at the time of a campaign, for instance—do not necessarily constitute graft or corruption. Indeed, there is nothing criminal about being friends with someone who is elected president. However, the issues here involve propriety and fairness. As early as 2017, Duterte

71 "Concurrent Resolution Approving the Transfer, Sale, or Assignment of the Controlling Interest of Mindanao Islamic Telephone Company, Inc." December 18, 2018 https://legacy.senate.gov.ph/lis/bill_res.aspx?congress=17&q=HCR-23

72 "Drilon: Mislattel franchise 'deemed revoked' due to 'patent violations,'" *PhilStar*, January 24, 2019 <https://www.philstar.com/business/2019/01/24/1887808/drilon-mislattel-franchise-deemed-revoked-due-patent-violations>

73 "SolGen urges SC to junk PT&T petition vs 3rd telco bidding," *ABS-CBN*, March 26 2019 <https://news.abs-cbn.com/business/03/26/19/solgen-urges-sc-to-junk-ptt-petition-vs-3rd-telco-bidding>

74 Michael Rueza, "Who's who in Duterte's poll contributors list," *Rappler*, December 9, 2016 <https://www.rappler.com/newsbreak/iq/duterte-contributors-list-2016-presidential-elections>

75 Jamaica Jane Pascual, "Dennis Uy, execs of firms behind third telco, gave P35.55M to Duterte campaign," *GMA News Online*, November 7, 2018 <https://www.gmanetwork.com/news/money/companies/673950/dennis-uy-other-execs-of-firms-behind-third-telco-contributed-over-p35-55m-to-duterte-campaign/story/>

76 Ralf Rivas, "Trillanes calls Dennis Uy's 3rd telco venture 'cronyism,'" *Rappler*, January 24, 2019 <https://www.rappler.com/business/trillanes-calls-dennis-uy-3rd-telco-venture-cronyism>

offered China the privilege of a license.⁷⁷ ChinaTel partnered with Dennis Uy to eventually become the only qualified bid. While there was a bidding process, some circumstances behind it—though not conclusively proving that it was maneuvered in favor of the Mislattel consortium—indicate it was not entirely above board, as indicated in the previous sections.

Furthermore, these allegations of cronyism simply contradict Duterte's populist persona. In his presidential campaign in 2016, he would call ruling families "cancers on society" and "illustrious idiots" for flying around in their private planes while the Filipino people suffered.⁷⁸ Duterte has also repeatedly rallied against the abuse and inefficiencies of big corporations.⁷⁹ Upon Mislattel's selection for the bid, however, it became easier for oppositions to point to how Duterte's attacks on the existing telecom companies are merely a part of his theatrics to advance a new wave of businessmen and give loyalists access to lucrative government contracts.⁸⁰

Presidential Communications Operations Office (PCOO) Secretary Martin Andanar calls these alleged cases of cronyism under the Duterte administration as "baseless and "erroneous."⁸¹ Andanar then reassured that the current administration is committed to enforcing rules and regulations that would make the country's business climate "competitive."⁸² He even identified the administration's plan to amend the 1987 Constitution on business ownership to open up the Philippine economy more to foreign investments.⁸³

The allegations, however, have proven to be difficult to dismiss, especially with how the telecom industry has observably favored DITO. For example, Duterte's threat to shut down Globe and Smart in 2020 has led to a nearly 11 percent increase of the shares of the holding company for DITO.⁸⁴ When PT&T, the Sear Consortium, and NOW Telecom decided to bring their respective cases before the courts in 2017, Duterte's admonition for the courts not to issue any TROs or injunctions could have been instrumental in the denial of their petitions and eventual dismissal of the cases that would have put the fate of DITO as the third telco under serious threat.⁸⁵

The common tower policy adopted by the government—where independent contractors may build cell towers for lease by the telcos—and its mandate to local governments to relax their processes concerning permits and licensing would contribute significantly to DITO meeting its national coverage commitment and playing catch-up with the two existing players.

77 Miguel Camus and Philip Tubeza, "Duterte offers China 3rd telco carrier slot," *Inquirer.net*, November 21, 2017 <https://newsinfo.inquirer.net/946465/duterte-offers-china-3rd-telco-carrier-slot>

78 Aurora Alemendral, "Crony capital: How Duterte embraced the oligarchs," *Nikkei Asia*, December 4, 2019 <https://asia.nikkei.com/Spotlight/The-Big-Story/Crony-capital-How-Duterte-embraced-the-oligarchs>

79 Almendral, 2019

80 Almendral, 2019

81 Ruth Abbey Gita-Carlos, "Andanar slams Nikkei's 'baseless' report on 'cronyism' in PH," *Philippine News Agency*, December 7, 2019 <https://www.pna.gov.ph/articles/1088167>

82 Gita-Carlos, 2019

83 Gita-Carlos, 2019

84 Jon Viktor Cabuenas, "Dito Telecom shares surge; Globe and PLDT plunge following Duterte's shutdown threats," *GMA News*, July 28, 2020 <https://www.gmanetwork.com/news/money/companies/748778/dito-telecom-shares-surge-globe-and-pldt-plunge-following-duterte-s-shutdown-threats/story/>

85 Cabuenas, 2020

Under the Policy on Shared Passive Telecommunications Tower Infrastructure (PTTI), the DICT encourages the growth and development of Independent Tower Companies (ITCs) to spearhead the genesis and development of a robust ICT environment of Shared PTTIs in line with their ultimate objective of enhancing wireless network coverage and quality of ICT services across the country. It seeks to widen the base of tower providers to fast-track the deployment of Shared PTTIs across all regions of the country, especially in the unserved and underserved areas.⁸⁶

The construction of more common towers will also allow telcos to free up their capital allocation for the construction of towers and instead redirect it to other strategic investments and projects. Taking advantage of DICT's initiative to open the sector to ITCs, PLDT, Globe, and DITO have sealed deals with tower contractors.

6. Threat to National Security:

Fears over cybersecurity vulnerabilities, even espionage, surfaced after National Defense Secretary Delfin Lorenzana signed a memorandum of agreement (MOA) between the Armed Forces of the Philippines (AFP) and DITO in the fall of 2020, giving the green light to the operator to install network infrastructure in military bases.⁸⁷ The Duterte administration has repeatedly defended the agreement by citing similar agreements between operators Globe and Smart and their respective foreign partners, Singapore Telecommunications and Japan's NTT Group. In response to concerns over possible breaches in cybersecurity, DITO has emphasized that it is a Filipino firm, further stressing that it "will not and shall not comply with" the China National Intelligence Law.⁸⁸ These assurances, however, have failed to satisfy critics who have strong concerns about the potential threat to the national security and sovereignty posed by the Philippines DITO's ties with China.

China's Commercial Interest in the Philippines

Reputedly, Ambassador of the People's Republic of China to the Philippines Huang Xilian presented statistics to convey an uptrend in the commercial activities between China and the Philippines in a public statement on the forty-fifth anniversary of the establishment of diplomatic ties between China and the Philippines on July 23, 2020. Huang cited USD \$3.11 billion worth of Chinese projects in the Philippines from January to May of 2020.⁸⁹ According to the ambassador, China remains the Philippines' largest trading partner, with bilateral trade reaching USD \$19.37 billion for the same period.⁹⁰ Moreover, Xilian reported that China's foreign direct investments in the Philippines increased in 2020 by 82.5 percent.⁹¹

86 Republic of the Philippines Department of Information and Communications Technology, "DICT Releases Guidelines for the Common Tower Policy," June 9, 2020 <https://dict.gov.ph/dict-releases-guidelines-for-the-common-tower-policy/>

87 Frances Mangosing, "Lorenzana says he signed deal to let China-backed Dito telco build cell sites in military camps," *Inquirer.net*, September 8, 2020 <https://newsinfo.inquirer.net/1332892/lorenzana-says-he-signed-deal-to-let-china-backed-dito-telco-build-cell-sites-in-military-camps#ixzz7Drr6tJeq>

88 Lisbet Esmael, "DITO seen clashing with Globe, Smart," *Manila Times*, December 26, 2020 <https://www.manilatimes.net/2020/12/26/business/business-top/dito-seen-clashing-with-globe-smart/817663>

89 Gillian Roper, "More Chinese projects in PH seen to 'upgrade' nations' ties: envoy," *ABS-CBN News*, July 21, 2020 <https://news.abs-cbn.com/news/07/21/20/more-chinese-projects-in-ph-seen-to-upgrade-nations-ties-envoy>

90 Roper, 2020

91 Recto Mercene, "China connects to PHL via BRI, digital 'Silk Road,'" *Business Mirror*, July 23, 2020 <https://businessmirror.com.ph/2020/07/23/china-connects-to-phl-via-bri-digital-silk-road/>

The ambassador stated that DITO “has now come to the stage of full construction, as work and production have been proceeding smoothly” and that more China cooperative projects in the Philippines would be coming.⁹²

Existing Maritime Disputes

Given the political tension created by the maritime dispute between China and the Philippines and Filipinos’ general mistrust of China, increased skepticism about the entry of China Telecom could only be expected.⁹³ Thus, when the AFP announced its MOA with DITO to “co-locate some of its microwave relay and base transceiver stations for mobile communications services and equipment with that of AFP,” antagonism against the third telco was reignited.⁹⁴

AFP spokesperson Major General Edgard Arevalo defended the agreement by saying that stringent requirements on the construction of cell sites and towers would still be imposed. Arevalo added that access to the camps—during construction and beyond—would also be stringent. Other assurances were given by Arevalo, such as the possibility of having a third-party cybersecurity audit; unannounced physical and virtual inspection of the facilities; and a guarantee from DITO that “it will not allow any of the parties affiliated to them to use the information obtained from the customers.”⁹⁵

Cybersecurity challenges

The strong opposition to the AFP-DITO deal is anchored in the fear of espionage and other cybersecurity threats, especially given China’s reputation in the cyberspace. Serious concerns have also been expressed by policymakers on allowing DITO inside vital facilities like military camps due to the increased risk of China spying on the Philippines.⁹⁶ AFP spokesperson Major General Arevalo assured that there is no cause for alarm in allowing DITO to set up facilities inside military camps, citing similar arrangements that the AFP has with Globe and Smart.⁹⁷ Globe has partnership ties with Singapore’s SingTel and Smart with Japan’s Nippon Telegraph and Telephone (NTT). However, a significant difference lies in the absence of tensions in the Philippines’ relations with Singapore and Japan.

Additionally, China’s cyber record is not particularly positive. CrowdStrike, one of the world’s largest cybersecurity firms, dubbed China as “ahead of Russia as the most prolific nation-state mounting attacks on firms, universities, government departments, think tanks and NGOs.”⁹⁸

92 Mercene, 2020

93 Julie Aurelio, “SWS: Most Filipinos don’t trust China,” *Inquirer.net*, November 22, 2019 <https://newsinfo.inquirer.net/1193117/sws-most-pinoys-dont-trust-china>

94 Martin Sadongdong, “AFP bares agreement with Dito telco on cell sites inside camps,” *Manila Bulletin*, September 16, 2020 <https://mb.com.ph/2020/09/16/afp-bares-agreement-with-dito-telco-on-cell-sites-inside-camps/>

95 Sadongdong, 2020

96 Christia Marie Ramos, “At Dito franchise hearing, senators hit lack of cyber defense plan vs attacks,” *Philippine Daily Inquirer*, December 8, 2020 <https://technology.inquirer.net/106226/at-china-backed-ditos-franchise-hearing-senators-hit-lack-of-cyber-defense-plan-vs-attacks>

97 Jeanette Andrade, “Military allays fears over telco facilities inside camps,” *Inquirer.net*, September 16, 2020 <https://newsinfo.inquirer.net/1164964/military-allays-fears-over-telco-facilities-inside-camps>

98 Charles Hymax, “China is ahead of Russia ‘as biggest state sponsor of cyber-attacks on the West,’” *The Telegraph*, October 9, 2018 <https://www.telegraph.co.uk/technology/2018/10/09/china-ahead-russia-biggest-state-sponsor-cyber-attacks-west/>

China Telecom has been allegedly involved in the misdirection of large amounts of Internet traffic to China and is likely to assist China's government's "surveillance of Western countries and companies."⁹⁹ In another report, Robert Limmergård wrote "it is clear that China runs an elaborate system to scout our technologies, acquire them by all conceivable means and convert them into competitive products—or military advantages."¹⁰⁰

Even the AFP itself recognizes the high likelihood of spying threats and the resulting damage posed by its deal, which would allow the China-backed telco to build cell sites in its camps and bases all over the Philippines.¹⁰¹ Moreover, the risk analysis prepared by the AFP raised the following points:

1. The cell sites of Globe and Smart inside AFP properties since 1998 pose the same risks. But, DITO's direct link to China's government poses a more imminent security threat.
2. China seeks ownership and control of the West Philippine Sea, while the Philippine government is tied up in China loans worth billions of pesos.
3. Under China's National Intelligence Law of 2017, Chinese companies—including ChinaTel—are required to "support, assist, and cooperate with state intelligence work" and under the 2017 Cybersecurity Law companies are required to "provide technical support and assistance to public security organs."¹⁰² The Australian Strategic Policy Institute notes that for "Chinese citizens and companies alike, participation in 'intelligence work' is a legal responsibility and obligation, regardless of geographic boundaries."¹⁰³
4. ChinaTel would have some digital access and control over DITO's equipment placed inside military properties and personnel.

The risk analysis document also identified specific vulnerabilities—eavesdropping, interception, and jamming—of the AFP's existing wireless communication systems.

News reports quoted an anonymous Philippine intelligence official who raised concerns not only about the AFP deal but about the presence of a telco that has links to China's government, saying that it could pose "irreversible consequences" to national security and is a "recipe for disaster."¹⁰⁴ The points raised by the anonymous official are as follows:

99 JC Punongbayan, "[Analysis] Disturbing red flags in the 3rd telco selection," *Rappler*, November 15, 2018 <https://www.rappler.com/voices/thought-leaders/analysis-red-flags-3rd-telco-player-philippines-selection>

100 Swedish Security & Defence Industry Association, "State sponsored cyber attacks," https://soff.se/wp-content/uploads/2018/03/Cybersecurity_statsunderst%C3%B6dda-akt%C3%B6rer.pdf

101 JC Gotinga, "Dito, DICT dismiss Chinese spying concerns about deal with AFP," *Rappler*, September 27, 2019 <https://www.rappler.com/nation/dito-dict-dismiss-chinese-spying-concerns-about-deal-afp>

102 Murray Scot Tanner, "Beijing's New National Intelligence Law: From Defense to Offense," *Lawfare*, July 20, 2017 <https://www.lawfareblog.com/beijings-new-national-intelligence-law-defense-offense>; National Intelligence Law, 2017; Rogier Creemers, Paul Triolo, and Graham Webster, "Translation: Cybersecurity Law of the People's Republic of China," *New America*, June 29, 2018 <https://www.newamerica.org/cybersecurityinitiative/digichina/blog/translation-cybersecurity-law-peoples-republic-china/>

103 Samantha Hoffman, "Huawei and the ambiguity of China's intelligence and counter-espionage laws," *The Strategist*, September 13, 2018 <https://www.aspiratelist.org.au/huawei-and-the-ambiguity-of-chinas-intelligence-and-counter-espionage-laws/>

104 Frances Mangosing, "'Recipe for disaster': Intel official warns vs China-backed telco in PH," *Inquirer.net*, September 17, 2019 <https://newsinfo.inquirer.net/1165400/recipe-for-disaster-intel-official-warns-vs-china-backed-telco-in-ph>

1. Several countries, including Australia, the United States, Japan, Taiwan, and New Zealand, have banned or reconsidered business deals with China's largest telco and phone manufacturer Huawei Technologies due to suspicions of potential state espionage.¹⁰⁵
2. The Philippines "is not prepared to fight this kind of war."¹⁰⁶ Even the United States, with the most advanced cybersecurity infrastructure, was not adequately prepared, to the point that its 2016 elections were undermined. The Philippines, the official said, has weak cyber defenses and is not ready for complex challenges.

DITO—through its Chief Administrative Officer Adel Tamano—assured the public that the telco company would protect the national and cybersecurity interests of the Philippines, saying that "as a Filipino company, in terms of cybersecurity, in terms of national security, DITO will always make these paramount, and we will never allow any country to violate our national and cybersecurity."¹⁰⁷

Conclusion

Because telecom services present popular and relatable issues for most Filipinos, it is not difficult to ride high on promises to make the system better and more affordable. Duterte did just this—capturing the imaginations of the people and, ultimately, the presidency. Duterte sought a third major player to break the country's duopoly and bring about the changes he promised to voters. In 2017, he made his preference clear, extending to China the opportunity to become a third operator. Toward the end of 2018, the Mislattel Consortium—a partnership between China Telecom and the business conglomerate founded by one of Duterte's staunch supporters—was chosen after a controversial bidding process. By mid-2019, DITO Telecommunity—as Mislattel Consortium would be known—was awarded a CPCN. DITO launched commercially in March 2021.

However, gaps in governance — coupled with DITO's partnership with China Telecom — have tainted otherwise welcome developments. Outwardly, the bidding process appeared routine, but the disqualification of two of the three bidders on technicalities raises concerns that the outcome was preordained. While legal remedies were available to disqualified and would-be bidders, formidable obstacles were thrown in their way: Substantial, non-refundable, court fees were levied on those who appealed, and Duterte admonished the courts and government agencies not to issue any restraining orders or injunctions that might interfere in swiftly awarding a franchise to a third operator. Legal appeals were dismissed and settled, but legal questions were not.

Moreover, questions persist about the unexplained withdrawals of several would-be bidders whose reputations and technical capabilities might exceed those of the winning bidder.

Some in Congress argued that DITO's legislative franchise should be revoked because the consortium failed, as specified by law, to begin operations within one year. After all, PT&T, a Philippine bidder, was disqualified for not operating nationwide despite regional operations spanning most of the country for

¹⁰⁵ Mangosing, 2019

¹⁰⁶ Mangosing, 2019

¹⁰⁷ Chiara Zambrano, "Will Dito Telecommunity expose Philippines to unhampered espionage?" *ABS-CBN News*, September 17, 2019 <https://news.abs-cbn.com/spotlight/09/17/19/will-dito-telecommunity-expose-philippines-to-unhampered-espionage>

more than 50 years. The Duterte-controlled Congress, however, overlooked the violation of law and allowed the DITO franchise to stand.

The tenacity with which the government defended the position of Mislattel Consortium during the bidding process lent credence to claims of cronyism. Such claims were inescapable: Mislattel's (DITO's) controlling interest is held by Dennis Uy, Duterte's staunch supporter and major campaign contributor.

The most significant cause for concern, however, surrounds the involvement of China. Concerns encompass much more than just the preferential treatment accorded to the regional power. The strongest pushback stems from the friction between the Philippines and China over a maritime dispute in the West Philippine Sea. Moreover, the Duterte administration has gone to extraordinary lengths to strengthen relations between the two countries as part of what it calls "independent foreign policy."¹⁰⁸ Unclear is the extent to which the national security of the Philippines has been, or will be, put at risk given China's uncompromising position in the maritime dispute, its dismal standing in global cyber security, the general mistrust of China among Filipinos, and the decision to allow China Telecom equipment and personnel on Philippine military bases.

Moreover, amendments currently under consideration to the Public Services Act of the Philippines—which, if passed into law, would permit full foreign ownership of public utility companies, including telecoms—could present such an opportunity to China on a silver platter. Any amendment should require foreign ownership in critical investments to undergo review by the Philippines National Security Council.

Government responses to these concerns have been blanket assurances without legal merit. In particular, spokespersons for DITO and the AFP have pledged never to allow the national security and privacy of Filipinos to be compromised, but have yet to release details about the measures they are ostensibly taking in order to uphold the pledge. And what happens when current government officials leave their positions? Can anyone—even Duterte—truly back up these assurances?

The best way to protect the Philippines is to limit the opportunities to compromise its security.

This paper is founded on the belief that all countries need foreign investment in accordance with their respective needs, conditions, and intentions, including the need to generate jobs, improve infrastructure, and spur economic growth. And the investments that the Philippines need most are from reputable players unlikely to corrode its institutions or democratic way of life.

Finally, simply having a third telco player does not guarantee that the benefits of competition will materialize. That is, even with a third operator, Filipinos still might experience the same low levels of service at the same high prices.

Given all these concerns, there is wisdom in rethinking the approach to foreign involvement in the telecom sector in the Philippines, particularly the role of China Telecom. Whatever benefits, if any, Filipinos might derive from a third telco player, they will never outweigh the threat DITO poses to national security.

108 Philstar.com, "Government to pursue independent foreign policy, says Duterte," *Philippine Star*, September 10, 2016 <https://www.philstar.com/headlines/2016/09/10/1622357/government-pursue-independent-foreign-policy-says-duterte>



What is BRI Monitor?

BRI Monitor is a collaborative effort by five civil society organizations in Southeast Asia and the Pacific: the Institute for Democracy and Economic Affairs (IDEAS) of Malaysia, Stratbase Albert Del Rosario Institute (ADRI) of the Philippines, Sandhi Governance Institute (SGI) of Myanmar, the Institute of National Affairs (INA) of Papua New Guinea and the Future Forum of Cambodia to promote transparency and accountability in major infrastructure projects funded through the Belt and Road Initiative (BRI) in the region.

These organizations have studied the regulatory environments governing these large infrastructure projects in respective countries, including public procurement, official development assistance, public private partnership (PPP), and more, to identify regulatory gaps. They have each researched a set of case studies to identify implementation gaps and governance gaps. Each case study assesses the level of transparency based on almost 40 data points, from basic project information to the tendering process to project completion. Last but not least, each organization maps out the structure of the projects in question in order to identify domestic and international entities involved in the project and to understand the degree of public financial exposure resulting from each project.

This website is intended to be a platform for the publication of our research outputs and as a knowledge repository. We also hope that the website can be used as a platform for knowledge sharing and a tool to advocate better governance of major infrastructure projects in the region.

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